

DOCKET

07-AFC-6

DATE April 24 2009

RECD. April 24 2009

JOHN A. MCKINSEY
jamckinsey@stoel.com

April 24, 2009

VIA HAND DELIVERY

The Honorable James D. Boyd
The Honorable Karen Douglas
Siting Project Committee
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Carlsbad Energy Center Project (07-AFC-6)
Applicant's Status Report (April 2009)

Dear Commissioners:

The Committee's December 26, 2008 Revised Scheduling Order requires all parties to submit Status Reports on January 30, 2009 and "every six weeks thereafter until [the Final Staff Assessment has been] filed." In addition, on April 17, 2009, Hearing Officer Kramer circulated electronic correspondence requesting that the April 24, 2009 Status Report include "suggestions for revisions to the now out-of-date Committee Schedule, including a process for the exchange of direct and rebuttal testimony and evidence, and other information such as witness lists." To that end, Carlsbad Energy Center LLC ("Applicant") submits this Status Report for the Carlsbad Energy Center Project ("CECP").

STATUS SUMMARY

Applicant believes that CEC Staff is on schedule to issue a Final Staff Assessment ("FSA") in May 2009. Staff has agreed to accommodate the Carlsbad community by planning for a workshop after publication of the FSA. Applicant remains committed to completing the permitting process and seeing CECP built to serve the region and, therefore, urges the Committee to continue to press CECP forward as rapidly as is possible.

CURRENT ISSUES AND ACTIVITIES

According to the current Committee Scheduling Order, the FSA is expected to be published by the end of March 2009. As this date has passed, on April 17, 2009 Hearing Officer Kramer

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requested the parties provide proposed revisions to the now outdated Committee Schedule. Applicant's proposed revised schedule can be found at the end of this Status Report.

Applicant looks forward to timely publication of the FSA and will work with Staff to resolve any outstanding issues related to the FSA to ensure its publication in accordance with the timeline provided in the Scheduling Order. Since the submission of the last Status Report on March 13, 2009, Applicant has been working with CEC Staff and the San Diego Air Pollution Control District ("SDAPCD"). At this juncture, Applicant believes the Supplemental Fire Risk Assessment and the Final Determination of Compliance ("FDOC") are the only two remaining outstanding items required for Staff to issue the FSA.

Final Determination of Compliance

Applicant has been working with the SDAPCD to ensure timely publication of the FDOC. Applicant has secured emission reduction credits and recently completed revised health risk assessment modeling requested by SDAPCD due to the California Office of Environmental Health Hazard Assessment's recent changes to some risk factors for a few relevant toxic air pollutants. Due to the complex nature of the modeling required for the revised assessment, modeling was finally completed late this week and the modeling results and revised assessment will be docketed and served on all parties early next week. Applicant is aware that the revised health risk assessment will be included as a table in the FDOC. It is Applicant's best estimate that SDAPCD will circulate the FDOC on or before May 11, 2009.

Fire Risk Assessment

Pursuant to the request of Dr. Alvin Greenberg, CEC Staff, Applicant has completed and docketed a Supplemental Fire Risk Assessment for CECP. The Supplemental Assessment confirms that CECP will not have a significant impact, cumulative or otherwise, upon the Carlsbad Fire Department's ability to respond in a fire or emergency and that CECP poses no incremental risk during an emergency event.

City Data Requests

On March 23, 2009, the City of Carlsbad ("City") submitted ten data requests to Applicant. Applicant timely objected to such requests on various grounds. On April 16, 2009, the City filed a Petition to Compel Response to Data Requests foregoing nine of the ten original requests. The City's Petition requests that the Committee compel Applicant to respond to one data request (request number 148). For various reasons, Applicant is opposed to responding to

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request number 148 and will submit its Response in Opposition to the City's Petition on or before the May 1, 2009 filing deadline.

PROPOSED SCHEDULE

Applicant is concerned about the potential for delays due to unfounded perceptions that various issues surrounding CECF remain irresolvable. In addition, CEC Staff's increasing number of AFC proceedings currently under review remains a concern to Applicant. That said, however, Applicant appreciates Staff's considerable time spent and efforts made to publish an FSA at its earliest ability.

[see next page for full Proposed Revised Schedule]

Applicant's Proposed Revised Committee Schedule

<u>Date</u>	<u>Event</u>
On or about May 11, 2009	FDOC issued by SDAPCD
20 days from issuance of FDOC	Final Staff Assessment (FSA)
20 days from issuance of FSA	FSA workshop (1-2 days)
Day after conclusion of FSA workshop	Committee Scheduling Conference
10 days after Scheduling Conference	Parties to submit testimonial outlines
20 days after submission of outlines	Parties to submit written testimony and witness lists
30 days after submission of written testimony	Parties to provide rebuttal testimony (and witnesses, if necessary)
1 week days after submission of rebuttal testimony	Prehearing Conference
2 weeks after prehearing Conference	Evidentiary Hearings
4 to 6 weeks after Evidentiary Hearings	PMPD issued for 30-day comment period
20-25 days after issuance of PMPD	PMPD Committee Conference (Comment Hearing)
Shortly after closure of PMPD comment period (or revised PMPD comment period, if revised PMPD needed)	Energy Commission Decision Adoption Hearing

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The Committee Scheduling Conference and subsequent deadlines included in Applicant's Proposed Revised Committee Schedule above are included to ensure all parties have time to fully prepare testimony that responds to the testimony of other parties in advance of evidentiary hearings, to avoid any surprise or unknowns at the hearings. The Committee Scheduling Conference is of particular importance as it will force the parties to identify early the topics that they intend to provide testimony and evidence about during evidentiary hearings. For the same reasons, Applicant has included ample time for rebuttal testimony in the above Proposed Revised Committee Schedule.

CONCLUSION

As always, Applicant is committed to providing, to the extent feasible, information that may assist CEC Staff with moving toward the publication of the FSA.

Very truly yours,

//original signed\\

John A. McKinsey
Stoel Rives LLP
Attorneys for Applicant, Carlsbad Energy Center LLC

JAM:kjh

cc: See Proof of Service

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 4/24/2009)

Carlsbad Energy Center Project (07-AFC-6)
Status Report (April 2009)

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

David Lloyd
Carlsbad Energy Center, LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
David.Lloyd@nrenergy.com

Tim Hemig, Vice President
Carlsbad Energy Center, LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
Tim.Hemig@nrenergy.com

George L. Piantka, PE
Carlsbad Energy Center LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
george.piantka@nrenergy.com

APPLICANT'S CONSULTANTS

Robert Mason, Project Manager
CH2M Hill, Inc.
6 Hutton Centre Drive, Ste. 700
Santa Ana, CA 92707
Robert.Mason@ch2m.com

Megan Sebra
CH2M Hill, Inc.
2485 Natomas Park Drive, Ste. 600
Sacramento, CA 95833
Megan.Sebra@ch2m.com

INTERESTED AGENCIES

California ISO
P.O. Box 639014
Folsom, CA 95763-9014
(e-mail preferred) e-recipient@caiso.com

INTERVENORS

City of Carlsbad
Allan J. Thompson
Attorney for City
21 "C" Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

City of Carlsbad
Joseph Garuba, Municipals Project Manager
Ron Ball, Esq., City Attorney
1200 Carlsbad Village Drive
Carlsbad, CA 92008
jgaru@ci.carlsbad.ca.us; rball@ci.carlsbad.ca.us

Terramar Association
Kerry Siekmann & Catherine Millr
5239 El Arbol
Carlsbad, CA 92008
siekmann1@att.net

California Unions for Reliable Energy ("CURE")
Gloria D. Smith & Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
gsmith@adamsbroadwell.com

COUNSEL FOR APPLICANT

John A. McKinsey
Stoel Rives LLP
980 Ninth Street, Ste. 1900
Sacramento, CA 95814
jamckinsey@stoel.com

INTERVENORS

Center for Biological Diversity
c/o William B. Rostove
EARTHJUSTICE
426 17th St., 5th Floor
Oakland, CA 94612
wrostov@earthjustice.org

Power of Vision
Julie Baker and Arnold Roe, Ph.D.
P.O. Box 131302
Carlsbad, CA 92013
powerofvision@roadrunner.com

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
rob@redwoodrob.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

KAREN DOUGLAS
Commissioner and Associate Member
kldougla@energy.state.ca.us

Paul Kramer
Hearing Office
pkramer@energy.state.ca.us

Mike Monasmi
Siting Project Manager
mmonasmi@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Elena Miller
Public Adviser's Office
publicadviser@energy.state.ca.us

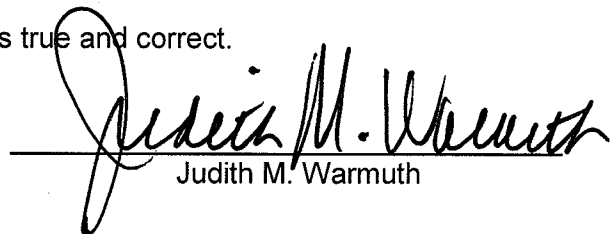
DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on April 24, 2009, I deposited copies of the aforementioned document in the United States mail at 980 Ninth Street, Suite 1900, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.


Judith M. Warmuth